

IN THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE

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IN RE:

PETITION FOR EXEMPTION OF  
CERTAIN SERVICES

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T.R.A. DOCKET ROOM

DOCKET NO. 03-00391

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**CONSUMER ADVOCATE AND PROTECTION DIVISION'S REPLY TO  
BELL SOUTH RESPONSE TO MOTION TO COMPEL DISCOVERY  
AND FILE SUPPLEMENTAL TESTIMONY**

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Paul G. Summers, Attorney General and Reporter for the State of Tennessee, through the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate"), respectfully submits its Reply to BellSouth Response to Motion to Compel Discovery and File Supplemental Testimony filed by BellSouth Telecommunications, Inc. ("BellSouth") on October 27, 2004. BellSouth's Response is substantially inaccurate. The Consumer Advocate, therefore, is compelled to file this Reply, lest anyone labor under the mistaken belief that BellSouth's Response presents a valid representation of the circumstances.

In particular, as demonstrated below, BellSouth is incorrect in its assumption that the Consumer Advocate failed to review and read the discovery responses provided by the company. BellSouth Response at 2. BellSouth also is wrong in its conclusion that the Consumer Advocate's own error in this regard lead to Mr. Buckner's submission of "mistaken testimony," which the Consumer Advocate now desires to correct through supplemental testimony. BellSouth Response at 1-2.

The question in dispute here is the Consumer Advocate's request for information regarding

the cost of service for PRI contract service arrangements. On August 30, 2004, the Consumer Advocate requested Revenue, Cost & Contribution Summaries for all PRI CSAs identified by BellSouth. See Consumer Advocate's Second Discovery Request, Request for Production No. 1. BellSouth provided only a partial response. Of the approximately 594 PRI CSAs identified by BellSouth, the Consumer Advocate received the requested Revenue, Cost & Contribution Summaries for approximately 240 CSAs.

In its Response, BellSouth asserts that the Consumer Advocate should have known the cost of service for the other approximately 354 PRI CSAs (for which it failed to provide the requested cost information) because BellSouth provided such information in response to another data request — Consumer Advocate's Second Discovery Request, Request for Production No. 3, Attachment 6, TRA Tariff 2002-461.<sup>1</sup> See BellSouth Response at 1. BellSouth further asserts that had the Consumer Advocate reviewed this discovery response, Mr. Buckner would not have submitted "mistaken testimony." *Id.* BellSouth's assertions are without merit.

In particular, BellSouth's discovery response to Request for Production No. 3, which BellSouth refers to in its Response, provided different cost information than BellSouth provided in its discovery response to Request for Production No. 1. In the discovery response relative to cost information for PRI CSAs (Request for Production No. 1), BellSouth provided cost figures for the PRI Interface — an essential and higher-priced element of PRI service — that are about 192% higher than the cost figures BellSouth provided in its discovery response relative to an optional PRI tariff program (Request for Production No. 3). Significantly, *all* of the approximately 240 Revenue, Cost & Contribution Summaries received by the Consumer Advocate *reported this higher cost* for PRI

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<sup>1</sup> BellSouth failed to give this explanation at the time of its incomplete response.

CSAs than BellSouth reported for the optional PRI tariff program. Additionally, many of the 240 Revenue, Cost & Contribution Summaries continued to report this higher cost for PRI CSAs *after* BellSouth's optional PRI tariff program became effective on December 23, 2002 (Tariff 2002-461). Therefore, the Consumer Advocate could not have assumed, as BellSouth erroneously suggests, that the cost information provided in these two discovery responses was interchangeable.

Accordingly, the only reason the Consumer Advocate desires to file supplemental testimony is to present analysis and conclusions on BellSouth's "newly-created" Revenue, Cost & Contribution Summaries reflecting cost information for PRI CSAs that the Consumer Advocate requested on August 30, 2004. BellSouth should be compelled to properly respond to discovery.

RESPECTFULLY SUBMITTED,

PAUL G. SUMMERS, B.P.R. #6285  
Attorney General and Reporter

  
JOE SHIRLEY, B.P.R. #022287  
Assistant Attorney General  
Office of the Attorney General  
Consumer Advocate and Protection Division  
P O. Box 20207  
Nashville, Tennessee 37202  
(615) 532-2590

Dated: October 28, 2004

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served via facsimile or first-class U.S. Mail, postage prepaid, on October 28, 2004, upon:

Joelle Phillips, Esq.  
BellSouth Telecommunications, Inc.  
333 Commerce Street, Suite 2101  
Nashville, Tennessee 37201-3300  
Facsimile: 615-214-7406

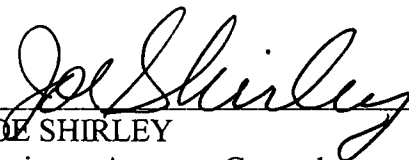
Guilford F. Thornton, Jr., Esq.  
Stokes, Bartholomew, Evans & Petree  
424 Church Street, Suite 2800  
Nashville, Tennessee 37219-2386  
Facsimile: 615-687-1507

Henry Walker, Esq.  
Boult, Cummings, Conners & Berry  
414 Union Street, Suite 1600  
Nashville, Tennessee 37219  
Facsimile: 615-252-6363

Martha M. Ross-Bain, Esq.  
AT&T Communications of the South, LLC  
1200 Peachtree Street, NE, Suite 8062  
Atlanta, Georgia 30309

Charles B. Welch, Jr., Esq.  
Farris, Mathews, Branan, Bobango & Hellen  
618 Church Street, Suite 300  
Nashville, Tennessee 37219  
Facsimile: 615-726-1776

Edward Phillips, Esq.  
United Telephone-Southeast, Inc.  
14111 Capital Boulevard  
Wake Forest, North Carolina 27587-5900  
Facsimile: 919-554-7913

  
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JOE SHIRLEY  
Assistant Attorney General

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